

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 16**

**STARBUCKS CORPORATION**

**Employer**

**and**

**Case 16-RC-292335**

**WORKERS UNITED SOUTHWEST REGIONAL  
JOINT BOARD**

**Petitioner**

**ORDER TO SUBMIT OFFER OF PROOF**

On March 16, 2022, Workers United Southwest Regional Joint Board (Petitioner) filed a petition pursuant to Section 9(c) of the National Labor Relations Act seeking to represent a unit of baristas, shift supervisors and assistant store managers working at the Employer's store located at 200 East Houston Street, San Antonio, Texas. On March 28, 2022, in accordance with the Board's Rules and Regulations, the Employer filed a Statement of Position (SOP) in this matter, stating the Employer intends to present evidence urging the Region to dismiss the instant petition and direct a multi-location election to include all baristas and shift supervisors working in the 13 Starbucks stores in District 2087. The Employer states in its SOP the single-facility bargaining unit sought by the Petitioner is not appropriate because: (1) the only appropriate unit is a district-wide unit including all 13 stores in District 2087; and (2) the Petitioner's selective filing of a single store representation petition violates Section 9(c)(5) of the Act.

The Regional Director's authority to determine the issues in dispute at the hearing is set forth in Section 102.66(c) of the Board's Rules and Regulations, as follows:

***Offers of proof.*** The Regional Director shall direct the Hearing Officer concerning the issues to be litigated at the hearing. The Hearing Officer may solicit offers of proof from the parties or their counsel as to any or all such issues. Offers of proof shall take the form of a written statement or an oral statement on the record identifying each witness the party would call to testify concerning the issue and summarizing each witness's testimony. If the Regional Director determines that the evidence described in an offer of proof is insufficient to sustain the proponent's position, the evidence shall not be received. But in no event shall a party be precluded from introducing relevant evidence otherwise consistent with this subpart.

See also Casehandling Manual, Part Two, Representation Proceedings, § 11226 (September 2020), (providing for the use of offers of proof "to focus and define issues and provide a foundation to accept or exclude evidence").

Recently, the Board denied the Employer's request for review on the issue of a single versus multi-store unit involving a store and district in Mesa, Arizona. See *Starbucks Corporation*, 371 NLRB No. 71 (2022) (*Mesa I*). In that case, the Board upheld the Regional Director's decision in Case 28-RC-286556 that the Employer did not meet its heavy burden to overcome the presumption that the petitioned-for single store units were appropriate. The Board specifically concluded with respect to the interchange factor that statistics provided by the Employer were insufficient as they did not establish regularity or frequency of interchange to rebut the presumption of a single-store unit. With respect to centralized operations and local autonomy, the Board concluded that the Employer failed to meet its burden that its technologies and corporate leadership negated the store managers' autonomy over certain personnel matters in the day-to-day operation of individual stores. The Board also concluded that the Employer failed to meet its burden that remaining factors under the Board's single-facility test, including similarity of employee skills, functions, working conditions, geographic proximity, and bargaining history, were sufficient to rebut the single-facility presumption in the context of the Board's multi-factor analysis.

Further, in an unpublished decision dated March 22, 2022, *Starbucks Corporation*, 2022 WL 685506, the Board denied review of the Regional Director's Decision and Direction of Election in Case 19-RC-287954, noting that the Employer's evidence of interchange "ha[s] the same shortcomings" identified in the Board's *Mesa I* decision, above, in that the evidence failed to establish regular interchange, and instead demonstrated limited and infrequent interchange between the petitioned-for employees in a single store and those in stores within the district. See, also, unpublished decision dated March 23, 2022, *Starbucks Corporation*, 10-RC-288098.

Based on the above,

**IT IS ORDERED** that the Employer submit an Offer of Proof, in writing, detailing what *distinct and different* facts and evidence from that presented in Cases 03-RC-282115, 03-RC-282127 and 03-RC-282139 (*Buffalo I*); Cases 03-RC-285929, 03-RC-285986 and 03-RC-285989 (*Buffalo II*); Case 28-RC-286556 (*Mesa I*); Case 28-RC-289033 (*Mesa II*); Case 27-RC-288318 (*Superior*); Case 27-RC-289608 (*Denver – Colfax*); and Case 16-RC-290302 (*San Antonio I*) that the Employer intends to present regarding the single vs. multi-facility unit issue about the petitioned-for San Antonio facility, including by answering the following questions:

1. Is the evidence regarding the central control over daily operations and labor relations, including the extent of local autonomy, substantially different for the petitioned-for unit than the evidence presented in the case numbers cited above? If so, please describe the specific evidence regarding how the operations are distinct and different. To what extent, if any, does the local autonomy in daily operations and labor relations differ from that described in the evidence presented in the case numbers cited above?
2. Is the Employer's evidence regarding the use of technological tools to control daily operations and labor relations substantially different for the petitioned-for unit than the evidence presented in the case numbers cited above? If so, please describe the specific evidence regarding how the businesses are distinct and different.

3. Is the Employer's evidence in this case concerning local store management's day-to-day supervision of employees and involvement in scheduling, staffing, rating employee performance, hiring and firing, discipline, and handling employee grievances substantially different from the evidence presented in the case numbers cited above? If so, please describe the specific evidence regarding how the businesses are distinct and different. Specifically, what evidence and testimony will you provide that shows the store manager at Store #15287 does not play a significant role in:
  - a. Adjusting schedules;
  - b. Approving time off and overtime;
  - c. Evaluating employees;
  - d. Conducting interviews and hiring employees;
  - e. Imposing discipline?
4. What are the geographic distances between the petitioned-for store and the other stores in District 2087?
5. Will the Employer's method of analyzing interchange data in this case differ from that presented in 28-RC-286556, wherein the Employer utilized an expert witness to present certain summaries and graphic representations of interchange, such as the percentages of employees who have worked in a single store as compared to those who worked in multiple stores; average percentages of total workdays where borrowed employees were required; and percentages of home store employees working at the petitioned-for store as compared to those assigned to other home stores? If the analyses and methodology will differ from that presented in Case 28-RC-286665, explain how it will differ.
6. In *Mesa I*, the Board concluded that the Employer's analyses of the data in that case did not show how often the petitioned-for employees worked at other locations and how often "borrowed" employees worked at the petitioned-for location. Accordingly, with respect to the issue of interchange, and given the burden to rebut a single store presumption, please provide the following information since April 2019 with respect to baristas and shift supervisors:
  - a. The percentage of total hours worked at Store #15287 by borrowed employees whose assigned home stores are at other stores in District 2087.
  - b. The percentage of total shifts worked at Store #15287 by borrowed employees whose assigned home stores are at other stores in District 2087.
  - c. The percentage of total hours worked at other stores in District 2087 by borrowed employees whose assigned home store is Store #15287.
  - d. The percentage of total shifts worked at other stores in District 2087 by borrowed employees whose assigned home store is Store #15287.

7. With regard to the percentages provided by the Employer in response to 6 above, what evidence does the Employer intend to present that any of the borrowed hours and shifts worked were not voluntary?
8. To what extent, if any, do the procedures to arrange, request, and accept shift swaps between stores differ from the procedures described in the evidence presented in the case numbers cited above? Please describe the specific evidence regarding how the evidence is distinct and different.

**IT IS ORDERED** that the Employer's Offer of Proof be submitted, in writing, no later than **4:45 p.m. Central Time** on Thursday, March 31, 2022.

**IT IS FURTHER ORDERED** that the Employer and the Petitioner submit a written statement detailing which portions of the records in *Buffalo I*, *Buffalo II*, *Mesa I*, *Mesa II*, *Superior*, and Case 16-RC-290302 (*San Antonio I*) or particular records in any other cases, are relevant to this case, and explaining their relevance. Please cite to specific exhibits, witness testimony and transcript pages, no later than **4:45 p.m. Central Time** on Thursday, March 31, 2022. The Offer of Proof must be E-Filed through the Agency's website.

**DATED** at Fort Worth, Texas, this 29<sup>th</sup> day of March 2022.



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TIMOTHY L. WATSON  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 16  
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**AFFIDAVIT OF SERVICE OF: Order to Submit Offer of Proof, dated March 29, 2022 .**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 29, 2022, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

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March 29, 2022

Date

Kari Kolb, Designated Agent of NLRB

Name

/s/Kari Kolb

Signature